Sectt. H-27—50.666—22-11-42.

Home (1944) Department.

M.S. SERIES.

20

G.O. No. 52

Dated 5-1-'44

MY

[Despatch Abstract.]

ESCHEAT - South Kanara District - Mangalore Town - Casba Bazaar village - Properties of the deceased Chennabasappa Shetty - Proposal of the Board of Revenue to reject the claims of Chennaveerappa Approved - Issue of declaration - ~~Rex~~ Deferred.

G.O.	No	Department.	Date
G.O	4090	Home	3.11.42
G.O	5117	Home	18.1.43
G.O	1835	Home	3.8.43

Further

G.O.	No.	Department.	Date
G.O	1532	Home	15 5.44
G.O	3367	Home	16.11.44

Hiring C No.

Call Book item. G.

Home (Genl) Dept.

Memo No. 22255 Gr/43-1 dt 25.9.43.

Escheat - South Kanara Dt - Mangalore Taun - Castba Bantwar village - Properties of the deceased Chennabasappa Shetty - further report - Ref: G.O. No. 1835 Home dt 3.8.43

The Board of Revenue is requested to state not later than 14.X.43 when the report referred to in para 4 of G.O No. 1835 Home dt 3.8.43 may be expected to reach the Govt.

To The Board of Revenue Madras.

R.D. 15/X/43.

25/9/43

25/9/43

JOINT SECRETARY 11 OCT 1943

ASSISTANT SECRETARY TO GOVERNMENT 11 OCT 1943 HOME DEPARTMENT

2/

23513 G 11.10.43

REVENUE DEPARTMENT.

***

Subject:-

ESCHEAT--South Kanara District--Mangalore Town--Kasba Bazaar village--Properties of the deceased--Chennabasappa Shetty--Further report.

- -

Ref.F.1798/43-1.

Station: Chepauk, Madras, Dated: the 5th October, 1943.

From

S. Y. Krishnaswamy, Esq., I.C.S.,
SECRETARY,
Board of Revenue, MADRAS.

F. W. STEWART, ESQ., C.I.E., M.C., I.C.S.,
COMMISSIONER OF LAND REVENUE.

***

Read the following:-

(1) G. O. No.1835, Home, dated 3-8-1943.
From the Government, Home Department, Memorandum 22255-G/43-1, dated the 25th September, 1943.

REFERENCE:-

The Board submits that the Collector has not reported the results of the suits. He is being reminded about it. A report will be submitted to the Government soon after his report is received.

2. XX XX XX

For SECRETARY.

To the Secretary to Government, Home Department (Para 1 only).
" the Collector of South Kanara (Para 2 only).

Submitted for perusal. The Board may be reminded, if necessary, 12.11.43.

TDE/6.10.

12/X/43 12/10/43 12/X/43.

REVENUE DEPARTMENT.

Subject.

Escheat - (South Kanara) - Mangalore town - Casba Bazaar village - Properties of the deceased Channabasappa Shetty - Further report - Submitted.

Ref.F.1798/43-2, dated 3-12-43.

From

R. Galletti Esq., I.C.S.,
Joint Secretary, Board of Revenue, Madras.

To

F.W. Stewart Esq., C.I.E., M.C., I.C.S., Commissioner of Land Revenue.

Read: (1) From the Government, Home Department, Memo.22255.G.43-1, dated 25-9-43.
(2) From the Collector of South Kanara Ref.A.3.2464/42, dated 2-11-43.

REFERENCE.

Submitted to the Government.

2. The Board agrees with the Collector and recommends that the claims put forward by Sri Chennaveerappa, the father-in-law of the deceased Chennabasappa Shetty may be rejected.

3. In the circumstances reported by the Collector in para 4 of his report under Col.12 of the application for declaring the property escheat, his further report in the matter of filing suits for setting aside the court decrees obtained by Subbanna Shastry in respect of the lands wrongly got included by him in the sale deed in his favour may be awaited.

4. As for the Collector's recommendation that the properties of the late Chennabasappa Shetty given in the application may be declared escheat the Board submits for the consideration of the Government whether they will declare the properties escheat now when the question of escheat is pending before the Civil Court or whether they will await the decision of the Court on the question of escheat. The Board, in this connection, invites their attention to a case of escheat of the real property of one Ponnambala Asari of Coimbatore town, worth about Rs.70,000 in which the Board has deferred the declaration of escheat till the question of escheat pending decision in civil courts is settled.

5. The Board requests also to be informed what the significance of the actual declaration is and whether there is any objection to making it directly the Collector has reported on it.

TRVaradachar
15/12/43
for Joint Secretary.

To the Secretary to Government, Home Department, with petitions in original to be returned and other enclosures.

AS.14/12.

Revd 2464-42.

Application for declaring immoveable property escheat.
South Kanara District.

1. Taluk	Mangalore.
2. Village	Vide separate lists I and II enclosed.
3. Description of property	
4. Area in acres	
5. Assessment or quit-rent	
6. Estimated yearly rent value	
7. Estimated market value:	
8. Date of the death of the last owner.	The last owner Channabasappa Shetty died on 25-3-42. His widow Gangamma died on 25-5-42.
9. Date of publication of notice inviting claims.	Published in the Dt.Gazette for December 42 dated 21-12-42.
10. Names of claimants and their relationship, to be deceased.	No claims other than those already reported in Ref.A3-2464-42 dated 16-8-42 have been received.
11. Particulars of objections raised.	Please see the report Ref.A3-2464-42 dated 16-8-42.
12. Collector's recommendations.	Please see separate sheets attached.

South Kanara Collector's Office,
Mangalore, dated 2 - 11 - 1943.

For Collector.

To

The Secretary to the Board of Revenue, Land Revenue and Irrigati
Madras.

List of properties of the deceased Channabasappa Shetty, proposed to be declared escheat to the Crown.

5/14

Mangalore Taluk.

Name of village.	Holding No.	S.No.	Description.	Extent.	Assessment.
Kasba bazaar.	308	(a)R.S.1036-2/ T.S.26-2.	Dry.	436 sq.ft. 0.01 cent.	0 3 0
		R.S.1044-1/ T.S.34-1.	"	1960 sq.ft. 0.04 cents.	0 10 0
		R.S.1044-2/ T.S.34-2.	"	218 sq.ft. 0.01 cent.	0 3 0
		(a)R.S.295/ T.S.1476.	"	2178 sq.ft. 0.05 cents.	0 14 0
		(a)R.S.1019-2/ T.S.9-2.	Garden.	5663 sq.ft. 0.13 cents.	2 3 0
		(a)R.S.1056-2/ T.S.46-2.	"	763 sq.ft. 0.02 cents.	0 5 0
		R.S.1043/ T.S.33.	"	2614 sq.ft. 0.06 cents.	1 0 0
		R.S.1045-1A/ T.S.35-1A.	"	33106 sq.ft. 0.76 cents.	12 15 0
		(a)R.S.1045-C/ T.S.35-C.	"	436 sq.ft. 0.01 cents.	0 3 0
		R.S.1045-B/ T.S.35-B.	"	4138 sq.ft. 0.09 cents.	1 9 0
		(a)R.S.1080/ T.S.70.	"	7841 sq.ft. 0.18 cents.	3 1 0
		(a)R.S.291/ T.S.1455.	"	4792 sq.ft. 0.11 cents.	1 14 0
		(a)R.S.302/ T.S.1471.	"	4792 sq.ft. 0.11 cents.	1 14 0
		R.S.319/ T.S.1540.	"	6534 sq.ft. 0.15 cents.	2 9 0
		(a)R.S.1020-5/ T.S.10-5.	"	2178 sq.ft. 0.05 cents.	0 14 0
		(a)R.S.1020-4/ T.S.10-4.	"	5227 sq.ft. 0.12 cents.	2 1 0
		(a)R.S.301-A/ T.S.1458-A.	"	5554 sq.ft. 0.13 cents.	2 3 0
		(a)R.S.301-C/ T.S.1458-C.	"	1851 sq.ft. 0.04 cents.	0 11 0
		(a)R.S.288/ T.S.1452.	"	11326 sq.ft. 0.26 cents.	4 7 0
		(a)R.S.289-A/ T.S.1453-A.	"	5772 sq.ft. 0.13 cents.	2 3 0
		(a)R.S.296/ T.S.1477.	"	4356 sq.ft. 0.10 cents.	1 11 0
		(a)R.S.316/ T.S.1536.	"	10019 sq.ft. 0.23 cents.	3 15 0
		(a)R.S.1046-A/ T.S.36-A.	"	2069 sq.ft. 0.05 cents.	0 13 0
		(a)R.S.1046-B/ T.S.36-B.	"	3920 sq.ft. 0.09 cents.	1 9 0
		(a)R.S.1047-1/ T.S.37-1.	"	5191 sq.ft. 0.12 cents.	2 0 0

T.O.

		(a)R.S.1048-A/ T.S.38-A.	"	2614 sq.ft. 0.06 cents.	1	0	0
		(a)R.S.1048-B/ T.S.38-B.	"	2396 sq.ft. 0.06 cents.	1	0	0
		(a)R.S.1056-1/ T.S.46-1.	"	2287 sq.ft. 0.05 cents.	0	14	0
		(a)R.S.1047-2/ T.S.37-2.	"	36 sq.ft. 0.01 cent.	0	2	0
		(a)R.S.1057/ T.S.47.	"	2178 sq.ft. 0.05 cents.	0	14	0
		(a)R.S.1059/ T.S.49.	"	1307 sq.ft. 0.03 cents.	0	8	0
		(a)R.S.1060/ T.S.50.	"	3920 sq.ft. 0.09 cents.	1	9	0
		(a)R.S.1061/ T.S.51.	"	4792 sq.ft. 0.11 cents.	1	14	0
		(a)R.S.1062-B/ T.S.52-B.	"	10672 sq.ft. 0.24 cents.	4	1	0
		(a)R.S.1062-A/ T.S.52-A.	"	4138 sq.ft. 0.09 cents.	1	9	0
		(a)R.S.1064/ T.S.54.	"	5227 sq.ft. 0.12 cents.	2	1	0
		(a)R.S.1067-1/ T.S.57-1.	"	4683 sq.ft. 0.11 cents.	1	14	0
		(a)R.S.1078/ T.S.68.	"	8276 sq.ft. 0.19 cents.	3	4	0
		(a)R.S.1079/ T.S.69.	"	4356 sq.ft. 0.10 cents.	1	11	0
		(a)R.S.1081-2/ T.S.71-2.	"	2995 sq.ft. 0.07 cents.	1	3	0
		(a)R.S.294/ T.S.1475.	"	4356 sq.ft. 0.10 cents.	1	11	0
		(a)R.S.298/ T.S.1472.	Dry.	871 sq.ft. 0.02 cents.	0	5	0
		(a)R.S.299/ T.S.1473.	Garden.	1307 sq.ft. 0.03 cents.	0	8	0
		(a)R.S.300/ T.S.1474.	"	1307 sq.ft. 0.03 cents.	0	8	0
		R.S.1039/ T.S.29.	"	3485 sq.ft. 0.08 cents.	1	6	0
		R.S.1045-A/ T:S.35-A2.	Dry.	436 sq.ft. 0.01 cent.	0	3	0
Chelur.	8.	S.No.74-3.	"	2.22 acres.	2	4	0
		-4.	"	0.74	0	12	0
		78-5.	"	0.27	0	4	0
		-7.	"	1.50	1	8	0
		81.3.	"	0.78	0	13	0
		-5.	"	0.20	0	3	0

P.T.O.

Chitur (Contd.)	8.	82-2	Dry.	3.44	acres.	Rs	3- 7- 0
		83-	"	35.92	"		35-15- 0
		84-2	"	5.72	"		5-12- 0
		102/1A	"	0.23	"		0- 4- 0
		90/1	"	0.84	"		0-13- 0
		/3	"	1.05	"		1- 1- 0
		/4	"	0.65	"		0-10- 0
		/5	"	6.84	"		6-13- 0
		75/5	Garden	0.30	"		0-11- 0
		76/2	"	0.13	"		0- 5- 0
		76 /9	"	0.42	"		1-14- 0
		80/6	"	0.15	"		0- 3- 0
		/7	"	0.84	"		3-13- 0
		85/6	"	0.32	"		0-12- 0
		/5	"	0.40	"		0-14- 0
		43/8	Wet	1.06	"		10- 8- 0
		75/3	"	1.49	"		10- 8- 0
		76/1	"	0.78	"		7-11- 0
		/7	"	0.58	"		4-14- 0
		77/6	"	2.46	"		20-12- 0
		80/1	"	3.00	"		21- 3- 0
		/3	"	2.02	"		14- 4- 0
		/4	"	0.06	"		0- 8- 0
		85/4	"	0.46	"		3- 4- 0
		88 /1	"	0.86	"		7- 4- 0
		85/1	"	0.24	"		1- 1- 0
		75/4	"	2.23	"		10- 1- 0
		75/1	"	0.76	"		2- 9- 0
		/2	"	0.40	"		1- 6- 0
		/6	"	0.11	"		0- 4- 0
		77/4	"	2.01	"		6-13- 0
		/5	"	0.26	"		0-14- 0
		80/5	"	0.28	"		0-15- 0
		/8	"	0.34	"		0-12- 0
		81/4	"	1.64	"		3-11- 0
		/6	"	0.08	"		0- 4- 0
		85/2	"	2.67	"		6- 0- 0
Bajape.		71.84/28	Dry	0.74	"		0- 9- 0
		/29	"	0.22	"		0- 3- 0
		93/2	"	2.45	"		2- 7- 0
		/4	"	4.14	"		4- 2- 0
		97/3	"	1.34	"		1- 0- 0
		98/4B	"	4.42	"		3- 5- 0
		/5A	"	70.37	"		52-12- 0
		101/1	"	0.90	"		0-11- 0
		/3B	"	6.78	"		6-13- 0
		98/8	Wet	0.25	"		1- 7- 0
		/5D	"	3.31	"		7- 7- 0
		98/1	"	0.94	"		2- 2- 0
		/3	"	2.12	"		4-12- 0
		/4A	"	1.95	"		4- 6- 0
		/6	"	0.68	"		1- 9- 0
		/5C	"	0.46	"		1- 1- 0
		/7	"	0.93	"		2- 2- 0
		/5B	"	1.52	"		3- 7- 0
		101/3A	"	0.40	"		1- 6- 0
Nirmarga	113	22/2	Dry	0.84	"		0-13-0
		212/2A	"	2.05	"		2-0-0
		/3A	"	3.87	"		3-14-0
		23/1C	Garden	0.01	"		0-1-0
		26/7	"	0.24	"		0-9-0
		212/9	"	0.15	"		0-3-0
		23/1B	Wet	0.29	"		2-14-0
		26/3	"	1.34	"		3-0-0
		27/1C	"	0.01	"		0-2-0
		37/4	"	0.58	"		4-14-0
		/8	"	1.80	"		4-1-0
		/12	"	0.13	"		0-5-0
	14	22/1H	Dry	0.40	"		0-6-0
		/1F	"	0.10	"		0-2-0

Nirmarga (Contd)	14	24/3B	Dry	13.73	acres	13-12-0
		35	"	7.33	"	7-5-0
		231/2	"	0.74	"	0-12-0
		23/3	Garden	0.67	"	1-8-0
		26/5	"	0.55	"	3-11-0
		27/3	"	0.32	"	1-7-0
		37/1	"	0.18	"	0-10-0
		/9	"	1.18	"	4-0-0
		65/2	"	1.06	"	2-6-0
		16/2	Wet	1.35	"	13-5-0
		23/2	"	3.77	"	37-4-0
		23/5	"	0.35	"	2-15-0
		26/1	"	0.30	"	2-15-0
		/2	"	3.28	"	32-6-0
		/6	"	2.15	"	21-4-0
		37/2B	"	0.12	"	1-0-0
		/6	"	0.28	"	2-6-0
		/11	"	1.55	"	13-1-0
		23/4	"	1.60	"	3-10-0
		26/4	"	0.63	"	2-2-0
		62/1	Dry	5.12	"	5-2-0
		147/4	"	4.08	"	4-1-0
Kolambe	137	7/1A	Dry	0.27	"	0.2.0
Padavu	203	113/1	"	2.19	"	2.3.0
		/12	"	0.12	"	0.2.0
		/4	"	0.51	"	0.8.0
		/7	"	0.33	"	0.5.0
		/8	"	0.12	"	0.2.0
		/11	"	1.05	"	1.1.0
		115/1	"	1.13	"	0.14.0
		/2	"	0.82	"	0.10.0
		/5	"	2.28	"	1.11.0
		263/1	"	0.89	"	0.11.0
		265/2	"	1.00	"	0.12.0
		269/3	"	0.90	"	0.11.0
		113/2	Garden	0.94	"	2.2.0
		114/2A	Wet	2.39	"	23.10.0
		/2C	"	0.08	"	0.13.0
		/4	"	1.10	"	9.5.0
		/1B	"	0.11	"	0.6.0
	205(b)	115/4	Garden	0.47	"	1.1.0

Note.- Plots marked (a) are said to be in the enjoyment of mulgeni tenants.

(b) This plot stands registered in the joint names of the deceased and one Mahalaxmi.

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for Collector

st showing the total area, assessment, rent value and market value in respect of the properties of the deceased annabasappa Shetty, proposed to be declared escheat to the Crown.

Name of the village.	Area in acres. Wet.	Garden.	Dry.	Assessment. Wet.	Garden.	Dry.	Estimated yearly net rent value after deducting taxes etc.	Market value capitalized at 4%	Remarks.
1	2	3	4	5	6	7	8	9	10
	A C	A C	A C	Rs.a.p.	Rs.a.p.	Rs.a.p.	Rs.a.p.	Rs. a. p.	
Casba Bazaar	-	4.56	0.14	-	77-9-0	2-6-0	1068-13-2	26720-9-2	
Chelur	23.79	2.56	60.40	135-6-0	8-8-0	60-7-0	840-0-0	21000-0-0	
Bajape	12.56	-	91.36	29-11-0	-	71-14-0	817-11-6	20442-15-6	
Nirmarga	19.53	4.36	38.26	147-8-0	14-7-0	38-3-0	1151-14-0	28796-14-0	
Kolambe	-	-	0.27	-	-	0-2-0	1-14-0	46-14-0	
Paavu	3.68	1.41	11.34	34-2-0	3-3-0	9-10-0	597-1-0	14926-9-0	
Total ...	59.56	12.89	201.77	346-11-0	103-11-0	182-10-0	4477-5-8	111933-13-8	

South Kanara Collector's office,
Mangalore, dated 2 - 11 --1943.

For Collector. 4-11-43

4.XI.43.

Column 12.

The history of this case was dealt with at length in my report Ref.A3-2464-42 dated 16-8-42 on which orders were issued in G.O.No. Ms. 4090 Rev. dated 3-11-42 with reference to the Board's Ref. 1-2056-42-3 dated 20-10-42. I also invite the Board's attention to my last report Ref.A3-2464-42 dated 9-7-43 in the matter. The connected cases referred to therein stand adjourned to 3-12-43.

2. The notice inviting claims, required by B.S.O.197-5 was published at pages 45 to 47 of the South Kanara Dt.Gazette dated 21-12-42. The time allowed in the notice expired on 30-6-43. The claimants in the civil court have not presented their claims in pursuance of the notice issued, presumably because the suit notice, sent by them before the publication of the notice, was ordered to be recorded in G.O.No.Ms. 4090 dated 3-11-42 cited above. No other claims have been received by me. The question as to who the legal representatives of the deceased are is still pending in the Sub court; but the Government Pleader, Mangalore, is of opinion that there is no purpose in delaying the declaration of the properties as escheat to the Crown, since even an adverse decree in the Sub court is not final and the claim of the Government will be contested even when the properties are declared escheat. I agree with him and recommend that the Government may be moved to declare the properties shown in the enclosed list I escheat to the Crown.

3. I enclose three petitions received from Sri Channaveerappa teacher, Central H.S.Mercara and the father-in-law of the deceased Channabasappa Shetty. He claims a sum of Rs. 4272-8-0 towards the funeral charges of his son-in-law and daughter, cash dowry alleged to have been given by him on behalf of his daughter and other amounts similarly spent by him for the deceased. Though he had stated in his petition dated 28-11-42 that he had enclosed documents in support of his claim, he had not done so actually and had failed to substantiate his claim in response to the notice issued by the Tahsildar, Mangalore. A final notice was also issued to him from this office on 12-2-43 to adduce independant evidence to show that the various items of expenditure alleged to have been incurred by him were defrayed out of his own pocket. Though the time allowed in the notice was one month, he has not yet responded to it. The Tahsildar has reported that no records have been traced in support of his claim except a few vouchers and a list showing the expenses relating to the funeral and other rites of the late Channabasappa Shetty. The total expenses come to Rs. 527-10-3. Unless the petitioner proves that he himself had spent this amount, it cannot be said at this stage that he is entitled to get the amount. It is probable that the widow of Channabasappa Shetty might have spent this amount out of the assets of her husband and the cash he had left at the time of his death. In these circumstances, I consider that there is no force in the claims put forward by Sri Channaveerappa and accordingly recommend that his claims may be rejected.

4. All the plots shown in the enclosed list I have been taken possession of by the Government. But the Tahsildar, Mangalore has since reported that S.Nos. 37.11, 65.2, 35, 212.2A, 3A, 9, 37.4, 2B1 and 8 of Nirmarga village standing registered in the name of the deceased widow were taken possession of by one Subbanna Shastry through the court on the strength of certain decrees obtained by him. These plots appear to have been sold to him by one Laxmi Bai Acharya to whom the deceased Channabasappa Shetty had sold some other properties belonging to him. There is a clause in the sale deed executed by the deceased in favour of Laxmi Bai to the effect that the entire 'Kille' properties are included in the said sale deed and in case any plot pertaining to 'Kille' property is omitted in the sale deed by mistake, the purchaser is entitled to take possession of the said plot also and enjoy them by virtue of the said sale deed itself. Taking shelter under this clause Subbanna Shastri wrongly got included in the sale deed in his favour the several plots mentioned above and has obtained court decrees in his favour for the possession of properties without making Government a party to the suits. I consulted the Government Pleader, Mangalore, on the desirability of having these decrees set aside but he is of opinion that it

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not be advisable to launch suits against strangers on the strength of title by escheat when the question of escheat is pending before the civil court. He has, however, suggested that the decrees can be got set aside immediately after the pending proceedings are decided in favour of the Government. I shall, therefore, send a further report in this matter after the cases pending in the court are finally disposed of.

South Kanara Collector's office,
Mangalore, dated 2 - 11 - 1943.

(Illegible) 4.11.43
For Collector.

4.XI.43

Home Deptt. 28

T.M. ✓ issued 15 th 21/12

From the Joint Secretary to Govt.
Home Deptt.

To the Joint Secretary, Board of Revenue.

Subject: [illegible]

Escheat (S. Kumara)-Manufacturing Town - Properties of the late Chettiar Veerappa. Shelty - Ref: Board's Ref No. F. 1798/43-2 dt 03.12.43

2. In the letter cited above reference is made to a case of escheat of the properties of one Ponnambala Asari of Coimbatore Town. Please state the G.O. and date of the G.O. in which orders were issued in that case as it is not readily traceable.

EV
18/12/43

18/12/43

18/12/43

OFFICE OF THE

Date 22/12/1943 Minutes

TELEPHONIC MESSAGE 11656

From Joint Secy Board.

To J. S. 22-12-43
Home

Your T. M of yesterday re escheat S. Kanara, Mangalore etc

The Case of escheat of the property of Ponnambala Nadar, Coimbatore, lies and subject to Govt as the value of the original property was only about Rs 7000 and the Board is competent to dispose them of.

22/12/43

JOINT SECRETARY
27 DEC 1943
HOME DEPARTMENT

Home (S) Dept. 15

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C 9/11/44

G.O. Ms. No. 52 Dt 5-1-44

Escheat - S. Kanara Dt - Mangalore Town - Casba - Barbar village - Properties of the deceased Chennabasappa Shetty - Proposal of the Board of Revenue to reject the claims of Chennaveerappa - Approved - Issue of declaration - Deferred

Read again:- G.O. 4090 Home Dt 3.11.42
G.O. 5117 Home Dt 18.1.43

Read also:-
C No. 30427 Dt. from the Board of Revenue, Ref. F. 1798/43-2 Dt 13.12.43

The Govt. direct that the Question of declaring escheat, the properties of the late Chennabasappa Shetty be deferred till the proceedings which are pending

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before the Sub-Court, Mangalore, as decided by that Court.

2 the Govt. accepts the recommendation of the Board of Revenue that the claims put forward by Sri Channaveerappa, the father-in-law of the deceased Channabasappa Shetty, be rejected

3 the further report, in the matter of filing suit for setting aside the Court decrees obtained by Subbanna Shasty in respect of the lands wrongly got included by him in the sale deed, is awaited.

4 with reference to para 5 of the

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references read above, the Board is informed that declaration of the properties as escheat is only the assertion of the Crown's claim to the properties as escheat. The mere fact that possession was taken will not make the intending claimants aware that the Crown is claiming the property as escheat and a formal declaration is therefore necessary. The declaration can be made at any time

Judicial note p3 ref

Legislative Secretary's note p3 ref

ibid.

To the Board of Revenue, Madras.
(with pp21-32 ref in original)

4/1/44

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Home Department.

Escheat - S. Kanara District - Mangalore Town - Carba Bazaar village - Properties of the deceased Chennabasappa Shetty - Proposals.

From the Board of Revenue, Ref.F-1798/43-2, d/ 13-12-1943.

Please see the reference from the Board of Revenue on p.5 c.f. and the Collector's letter on pp.19-20 c.f. The following is a brief summary of the case.

2. One Chennabasappa Shetty of Mangalore Town died on 25-3-1942 leaving no heirs. He possessed personal properties worth about Rs.200/- and real properties worth about Rs.12,000/- at the present value. The personal properties of the deceased were handed over to the Sub Judge, Mangalore who has taken steps to dispose of them in accordance with the provisions of clause 7 of section 16 of Regulation III of 1802. The Sub Judge has taken it as E.C.No.1/42 on the file of his court. In the meanwhile two persons, Shivalingappa Shetty and his younger brother, minor Shiva Shetty, claiming themselves as the heirs of the deceased Chennabasappa Shetty, sent a suit notice to the effect that they were entitled to the properties of the late Chennabasappa Shetty and threatening to sue the Govt. in case the properties of the deceased were not handed over to them with all rents and mesne profits collected by the Govt. from the properties.

The Govt. Pleader, Mangalore, who was consulted in the matter, was of opinion that the properties were liable to escheat. The properties were taken charge of by the Collector of S. Kanara according to B.S.O. 197-5.

The Collector had stated that there were some civil suits pending in the Sub Court and District Court in respect of the estate of the deceased. In G.O. No. 4090, Home, dated 3-11-42 the Collector was authorised to record the suit notice referred to above and he was also permitted to agree to the Province of Madras being impleaded as the legal representatives of the deceased in all the suits, appeals and petitions in respect of the estate of the deceased.

3. Further enquiries made by the Collector revealed that the Shivalingappa Shetty and Shiva Shetty, the two claimants referred to in para 2 above, were not the persons whom they

represent to be and that the real claimants were one Shivalingappa and Soma Sekhara whose whereabouts were not known - please see in this connection the Collector's letter on p.7 c.f. and the opinion of the Govt. Pleader on pp.8-9 c.f. of G.O. No. 1837, Home, dated 3-8-1943. (U)

4. The Collector now reports that, though notice inviting claims was published in the District Gazette, the claimants in the suit notice did not present their claims within the prescribed time and that no other claims were received. The Collector states that the Govt. Pleader, Mangalore, is of opinion that for the reasons given at A on p.19 c.f. the properties may be declared escheat even now. The Collector's proposals are (1) that the properties may be declared escheat, (2) that the claims put forward by the father-in-law of the deceased, Sri Chennaveerappa, for the sum of Rs.4,272-8-0 alleged to have been spent by him towards the funeral charges of the late Chennabasappa Shetty and his wife, and other expenses, may be rejected and (3) that suits for setting aside some decrees got by one Subbanna Shastry for the possession of some of the properties of the late Chennabasappa Shetty, which were wrongly included in the decree, may be filed after the escheat proceedings in the Sub Court are over. Proposals (2) and (3) are recommended by the Board and may be accepted. As regards the Collector's first proposal to declare the property escheat now, the Board requests for orders as to whether Govt. will accept the Collector's proposal or whether the property will be declared escheat after the escheat proceedings in the Sub Court are over. It is submitted that it seems advisable to defer the question of declaring the properties escheat till the court has given a decision in the Escheat Case No. 1 of 1942, as well as in the other suits and appeals pending before the Sub Court, Mangalore - please see the Collector's letter on p.6 c.f. of (U). Attention is in this connection invited to a similar case in regard to the estate of the late Koothali Nayar whose properties were declared escheat to Govt. only after a decision was given by the District Court, N. Malabar that the property escheated to the Crown.

5. As regards para 5 of the Board's reference, it is submitted that the significance of declaring the property escheat

is that it makes the Govt. the ~~vital~~ virtual owner of the property with powers to dispose of it and that the Govt. may file suits for the recovery of possession of any escheated property which is in the possession of any body, as in the present case. If the property is not declared escheat, the Govt. it seems, are only in the position of trustees or managers of the property for its care and maintenance. It may be pointed out that even when the property is declared escheat, it can be disposed of only after twelve years. Perhaps Legal dept. may be requested to advise with reference to para 5 of the Board's reference.

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Legal Department

The circumstances in which immovable properties of a person who has died intestate may be declared escheat are set out in B.S.O.197 (5). The declaration is only the assertion of the Crown's claim to the property as escheat. In this case, the Collector has already taken charge of the properties. The declaration is only a formal one and there is no legal objection to making it now as recommended by the Government Pleader and the Collector. The question whether the declaration may be made now or later as suggested at A on page 2 ante is one for the administrative department to consider.

Legal U.O. 8258-1
31-12-43

Home department

Please see the note of the Legal Deptt. above. They are of opinion

that declaring a property escheat is only the assertion of the Crown's claim to the property and that this declaration can be made at any time. M

Please see JS's order at A on p 2 ante. A draft order is submitted for approval.

ER
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4/1/44 A2

A-2

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DEPART